

**IN THE COURT OF SH. SHATIN GOYAL,
APPELLATE AUTHORITY, AMRITSAR.**

CNR No.

Case No. RA/8/2020

PBAS010007652020



Presented on : 17-01-2020

Registered on : 18-01-2020

Decided on : 09-02-2026

1. Rakesh Chopra son of late Sh. Raj Pal Chopra, resident of 92, The Mall, Amritsar.

.....Appellant/petitioner.

VERSUS

1. Ram Pyari widow of Beli Ram, resident of H.No.47, Street No.3, Muslim Ganj, near Tilak Nagar, Shivala Bhaiyan, Amritsar through her legal heir:-
 - i) Hem Raj son of Sh. Beli Ram, resident of H.No.47, Street No.3, Muslim Ganj, near Tilak Nagar, Shivala Bhaiyan, Amritsar.
2. Hem Raj son of Sh. Beli Ram, resident of H.No.47, Street No.3, Muslim Ganj, near Tilak Nagar, Shivala Bhaiyan, Amritsar.

..... Respondents

Appeal against the order dated 28.11.2019 passed by Court of Sh. Harpreet Singh, Rent Controller, Amritsar vide which the rent petition of appellant was dismissed.

Present: Sh.Khushbir Singh, Advocate counsel for the appellant.
Sh. Tirath Singh, Advocate counsel for respondents no.2 and
Lrs of respondent no.1.

JUDGMENT:

1. The instant appeal has been preferred by appellant/petitioner Rakesh Chopra being aggrieved from order dated 28.11.2019 passed against him. Before taking up present appeal, it shall be appropriate to understand the controversy.
2. Petitioner/landlord filed the eviction petition before Rent Controller alleging that the respondent no.1 was inducted as tenant in the shop in question @ Rs.1000/- per month on dated 01.09.1998 by father of the petitioner with increase of 15% after every three years. All the terms and conditions settled between the parties were incorporated in the rent note duly executed between the respondent no. 1 and late Raj Pal Chopra father of the petitioner who died on 07.10.2013. The petitioner being sole legal heir has become owner-landlord of the entire demised building. Hence, there exists relationship of landlord and tenant between the parties. It is submitted that as per the enhanced rent clause, the rent from 01.09.2001 to 30.08.2004 was Rs. 1150/- per month and from 01.09.2004 to 30.08.2007 was Rs.1323 per month and from 01.09.2007 to 30.08.2010, it was Rs. 1521/- and from 01.09.2010 to 30.08.2013, it was Rs.1749/- and thereafter from 01.09.2013 to 30.08.2016, it was Rs.2011/- and from 01.09.2016 to onwards, it

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was Rs.2313/- per month. It is submitted that after the death of Raj Pal Chopra, respondent no. I paid rent only for one month i.e. for the month of November 2013 and regarding the same the receipt was issued to the respondent which is in her possession, but after that she did not make any payment the rent. The petitioner seeks evidence of the demised tenanted premises on the ground of arrears of rent, non-paying of electricity charges as well as bonafidely requiring the same for his own use and occupation and for the use and occupation of his son Rajat Chopra as he intends to expand his business. Further, respondent no.1 has sublet the shop in question in favour of respondent no.2 without the consent and permission of the landlord and further respondent without the consent and permission of petitioner has installed sub meter in the shop in question. Hence, necessity arose to file the petition.

3. Upon notice, respondents/tenants appeared before the learned Rent Controller and filed written reply taking preliminary objections of maintainability, concealment of material facts, cause of action and locus standi and petitioner being estopped from filing the present petition. On merits, the relationship of landlord and tenant qua the shop in question is admitted. It is admitted that the respondent no I was inducted as a tenant in the shop in question Rs.1000/- per month by the father of the petitioner with condition to increase 15%

after every three years. The factum of death of the petitioner namely Raj Pal Chopra is also not disputed. The facts regarding the enhancement of the rent is also not disputed. However, it is denied that respondent has only paid the rent for the month of November 2013 Rs.1700/- instead of Rs 2011/- per month after the death of the father of the petitioner. It is submitted that after the death of the father of the petitioner they have paid the rent of the shop in question to the petitioner as per the terms and conditions of the rent note up to August 2016, But thereafter petitioner did not accept the rent. It is submitted that respondent no.1 has paid the rent to the petitioner in good faith and no receipt was issued by the petitioner in favour of the respondents. Now the intention of the petitioner has become malafide and on the basis of false story landlord filed the present petition against the answering respondent. It is denied that the respondents have neither paid nor tendered the rent from December 2011 to 30.08.2016 amounting Rs. 66363/-and from 01.09.2016 till date Rs 2313/- per month amounting to Rs.68676/- as alleged. It is denied that respondent has not paid rent to the petitioner as alleged. It is submitted that the rent stood paid up to August 2016. It is denied that respondent no.1 has sub let the shop in favour of respondent no.2 without the consent and permission of the landlord. In fact it has been clearly mentioned in the rent note that the shop in question has been taken on rent by the respondent

no.1 for doing the business of scooter repair. Since the inception of the tenancy respondent no.1 is running the business of scooter repair in the shop in question with the help of her son i.e. respondent no.2. It is submitted that since the year 1998, respondent no.1 with the help of respondent no.2 is running the shop for scooter repair. It is submitted that if there is any violation of the terms of the rent note then why the applicant and his father remained silent for that. It is submitted that the present petition is filed only in order to harass the replying respondents on false,vagee, wrong and indefinite grounds, which are legally not maintainable under the law.

4. On the basis of the pleadings, the following issues were framed:-

1. Whether tendered arrear is short and invalid? OPA.
2. Whether demised premises is the bonafide requirement of the petitioners and respondent is liable to be elected from the same? OPA
3. Whether present petition is not legally maintainable?
OPR
4. Whether locus standi and cause of action has arisen in favour of the petitioner to file the present petition?
OPR

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5. Whether petitioners have not come to the Court with clean hands and have suppressed the material facts from the Court? OPR
 6. Whether petition is bad for mis-joinder and non-joinder of the necessary parties? OPR.
 7. Relief.
5. In order to prove its case, petitioner examined voluminous evidence. The crux of which is as follows:-
- 1) **AW1 Avtar Singh Draftsman** appeared and tendered into evidence his affidavit Ex.AW1/A. He has proved site plan of the property in question as Ex.A1.
 - 2) **AW2 Sandeep Chopra** who witnessed the rent note, appeared in the court and proved the rent note Ex.A2.
 - 3) **AW3 Rakesh Chopra** petitioner himself appeared and tendered his sworn affidavit Ex AW3/A in which he reiterated the averments as made in the petition. He also produced copy of the rent note as Ex.A2 on the file.
 - 4) **AW4 Mangat Ram Silli** who scribed the rent note appeared in the court and deposed that the rent note was scribed on instruction of the respondent no.1. He has proved the rent note as Ex.A2 and entry in his register regarding that as Ex.AW4/1. Thereafter, petitioner has closed the evidence vide his separate statement.
6. In order to rebut this evidence, the respondent/tenant also led

voluminous evidence. Crux of the same is as under:

1) **RW1 Hem Raj respondent** himself tendered his affidavit as Ex.RW1/A and reiterated the averments as made in the written reply. He has produced the documents site plan of the entire building as Ex.R1, certified copy of the sale deed dated 29.03.2012 Ex.R2, photographs Ex. R3 to Ex. R8 and power of attorney of the respondent no.1 as Ex.R8.

2) **RW2 Rohit Gupta Draftsman** appeared and tendered his duly sworn affidavit Ex.RW2/A and proved site plan Ex.R1 on the file. Thereafter, respondent no.2 closed the evidence of the respondents.

7. On the basis of the evidence so led, the learned Rent Controller passed the judgment holding that insofar as eviction sought on the ground of non-payment of rent is concerned, the same could not be allowed as the assessed rent stood duly paid. It was further observed that no evidence regarding non-payment of electricity charges had been led.

8. Coming to the second ground of eviction sought on the basis of the bona fide requirement of the petitioner, the learned Rent Controller observed that the petitioner-appellant had failed to disclose the nature of the business which he intended either to start or to expand, and in the absence of such details the claim of requirement appeared to be merely a wish and not a genuine need. It was further observed that from the evidence on record the petitioner-appellant

was not shown to be carrying on any business at the site and therefore the possibility of expansion of any existing business also did not arise. The learned Rent Controller also noticed from the evidence that the appellant had earlier got other properties vacated and thereafter sold the same and had also secured possession of other properties in the same locality which were not put to any use. It was further held that proper disclosures in this regard were not made before the Court and such conduct amounted to concealment of material facts.

9. Coming to the third ground of eviction sought on the basis of sub-letting, the learned Rent Controller held that respondent No.2 was none other than the son of respondent No.1, the admitted tenant, and that the business being carried on by respondent No.2 on behalf of respondent No.1 did not amount to sub-letting in any manner. On these grounds, the learned Rent Controller dismissed the eviction petition filed by the petitioner-landlord.

10. Aggrieved by these findings, the present Court has been approached in appellate jurisdiction. It is submitted on behalf of the appellant-petitioner that the learned Rent Controller has passed a judgment which requires interference. It is pertinent to mention that in the grounds of appeal, no challenge has been raised to the finding whereby eviction was declined on the ground of non-payment of

rent. However, with regard to the bona fide requirement of the appellant-petitioner, it has been contended that it is not for the tenant to dictate to the landlord as to where and how he should carry on his business and that the landlord himself is the best judge of his requirements. Expansion requirements, needs to be tested from the point of view of landlord and not tenant or subjective opinion of the concerned judge. It is further contended that no concealment of any material fact was made and learned rent controller gave undue importance to non-existent and irrelevant facts in this regard. Infact learned Rent Controller ignored the settled law regarding the personal and bona fide necessity of the landlord and misread the evidence as well as the legal provisions. It has also been submitted that the plea of sub-tenancy of respondent No.2 was wrongly rejected, which constituted an independent ground for eviction. It was further argued that there was no necessity to mention anything regarding the property allegedly sold by the appellant and that respondent No.1, namely Ram Pyari , did not appear as a witness and therefore an adverse inference ought to have been drawn. On these grounds, a prayer has been made for allowing the appeal and passing an order of eviction.

11. The appeal has been strongly resisted by the respondents, who have submitted that the learned Rent Controller has passed a perfectly

legal and sustainable judgment which does not warrant any interference. According to the respondents, all the aspects were properly considered and a comprehensive discussion was made by the learned Rent Controller, and the alleged requirement of the landlord cannot be presumed to be bona fide merely on assertion.

12. I have considered the rival submissions and am of the opinion that the learned Rent Controller has passed an erroneous judgment and has misinterpreted both the evidence and the law. The learned Rent Controller has ignored the recent jurisprudence which largely favours the landlord while assessing the question of bona fide requirement on the basis of which eviction can be sought. The law relating to bona fide requirement has undergone substantial evolution in recent years, and the scope for interference at the instance of the tenant has been considerably narrowed. Those findings are therefore reversed through present judgment. However, the findings recorded by the learned Rent Controller to the effect that no sub-tenancy has been established deserve to be affirmed. Since no challenge has been raised in this appeal with regard to eviction on the ground of non-payment of rent, no discussion regarding the said ground is being undertaken in the present judgment.

13. Coming to the argument of the landlord that he requires the property in question for his own use and his son's business and its expansion. The learned Rent Controller seems to have overstretched certain provisions so as to deprive the appellant/landlord of the relief. In the opinion of this Court, the learned Rent Controller has completely missed the recent years' rent jurisprudence which gives strong importance to the presumption of truthfulness in the bona fide necessity pleaded by the landlord.

14. Going by the pleadings, the landlord has claimed that he requires the property in question for his own use and also for the use and occupation of his son, Rajat Chopra. The landlord has further pleaded that the shop in question is situated on the main Batala Road and is very suitable for such requirement. The petitioner-landlord has also stated that he has even got the adjoining shop vacated from another tenant, Rajesh Kumar Luthra. The petitioner-landlord himself and his son do not possess any other such commercial property except the building of which the tenanted shop forms a part. It was also specifically pleaded that the petitioner has neither sold nor vacated any such premises without sufficient cause after the commencement of the Rent Act.

15. The learned Rent Controller, however, refused to accept this pleaded requirement on the ground that the business which is intended to be expanded has not been disclosed at all. The learned Rent Controller even observed that it has rather emerged that the petitioner is not doing any business and is dependent upon rental income. In the absence of any explained business, there does not arise any occasion or question for expansion. The learned Rent Controller further observed that though a blueprint may not be needed as to how the business will be run, at least the basic requirement, namely what is the requirement and what business is proposed to be done, was not even pleaded. The learned Rent Controller observed that the Rent Controller is to permit eviction on the ground of bona fide requirement of the landlord and not merely on a simple wish. The learned Rent Controller also emphasised certain words from the cross-examination of the petition-landlord wherein the petitioner allegedly admitted that there is no income from the business of embroidery and only rental income is there, and that the neighbour AW-2 is also not aware of the kind of business.

16. This Court, however, is unable to endorse such observations of the trial Court. Pleadings are not an encyclopedia. In the pleadings only the basic foundation is to be made. Rational expansion of the

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pleadings through evidence is possible. The clear foundation was there in the pleadings that the shop in question is needed for his own use and also for the occupation of his son, Rajat Chopra i.e. for expansion of business . Situational advantage was clearly pleaded. Clear disclosure of having already got the adjoining shop vacated from another tenant was also clearly pleaded, apart from the statutory requirement that commercial properties of such nature were not vacated without sufficient cause.

17. When the petitioner came into the witness box, such aspects clearly emerged in favour of the petitioner-landlord. The learned Rent Controller seems to have misread the evidence and picked up lines in isolation that the petitioner is not doing any business. In fact, a comprehensive evaluation of the evidence reveals that the petitioner is engaged in the business of embroidery business apart from rental income. It has come on record that the petitioner claimed that he is running his business office in a shed. Similarly, he also stated in clear terms that his son is also doing his business in the shed and in a separate office. The conclusion of the learned Rent Controller that these persons were not doing any business is therefore completely out of place.

18. The requirement of the landlord needs to be presumed as correct unless proved otherwise. The landlord cannot be subjected to such a

nature of evidence as if he is to prove before the tenant beyond all doubts that his requirement is genuine. Rather, the law is otherwise, where the bona fide requirement of the landlord is presumed unless proved otherwise.

19. It shall not be out of place to mention that the property in question is situated on the main Batala Road, which is the main commercial centre of the region, and certainly the landlord has the right to choose what is best required for him. A clear disclosure has been made that the entire business complex in which the shop in question is situated belongs to him, and the requirement of the landlord is specifically for this particular shop. The tenant cannot dictate as to why a specific shop in the said compound is needed. It is for the petitioner-landlord to decide what is best suited to his requirement. It has also been clearly pleaded that the adjoining shop has already been got vacated from Mr. Luthra, which further consolidates the case of the landlord.

20. The prevalent law regarding bona fide requirement needs to be discussed to understand the legal concept. It was held in **Parikshat Suri vs. Ashok Kohli, 2009(2) RCR (Rent) 87 (P&H)** that in case of bonafide requirement, tenant cannot dictate the term or questions the bonafide of landlord. The landlord would be the best judge of his requirement. The Rent Controller cannot begin with

presumptions that there was lack of bonafide on the part of landlord.

21..In “**Arun Kumar vs. Gurcharan Singh, 2017 (2) RCR (Rent) 37,**” the Hon’ble High Court held that the landlord is the sole judge of his bona fide requirement and a presumption of bona fides operates in his favour. In “**Davinder Kumar vs. Nachhattar Singh, 2021 (1) RCR (Rent) 360**” it was held that a tenant cannot dictate to the landlord which premises is more suitable for his business needs. Likewise, in “**Dewan Singh vs. Karam Singh, 2020 (2) RCR 247**”, it was reiterated that the landlord alone decides suitability of premises. In “**Shammi Kapoor vs. Raghuvir Kaur, 2017 (2) RCR (Rent) 574,**” the Court reaffirmed that the landlord is the best judge of his commercial needs.

22.Then in “**Balbir Kaur vs. Roop Lal etc., 2011(2) RCR (Rent) 593 (P&H),**” it was held that landlord has every right to expand business and to open new ventures. Reliance may also be placed upon judgment. A person may legitimately wish to expand or alter his business activity. “**Balwant Singh @ Bant Singh & Anr. vs. Sudarshan Kumar & Anr., 2021(1) RCR (Rent) 146**” wherein the Hon’ble Supreme Court of India, held that a tenant cannot dictate the adequacy of space available with the landlord for

running his business. Accordingly, this argument of the appellant-landlord should have been accepted by trial court.

23..Infact the trial Court should not have imposed its own opinion upon landlord as court cannot substitute its own opinion for that of the landlord. The requirement has to be examined from the standpoint of the landlord and not from the perspective of the tenant or even court.

24.Applying all these abovementioned authorities, this Court finds that the petitioner appellant has successfully demonstrated a genuine and bona fide requirement. The testimony of AW-1 petitioner cannot be doubted and clearly establish a case in his favour. Rigorous cross-examination of petitioner's evidence clearly establish need of petitioner being bonafide.

25.The argument that the landlords are earning sufficiently and therefore have no genuine requirement is also untenable. The Court is not expected to conduct an economic audit of the landlord's income. The right to expand one's business or improve one's livelihood is inherent and cannot be curtailed on such grounds.

26.Therefore, this Court is of the considered opinion that in the exercise of appellate jurisdiction, the findings recorded by the learned Rent Controller deserve to be reversed. It must be held that

the requirement pleaded by the landlord–applicant regarding the shop in question, namely the premises in question, for the expansion of his own business as well as for the expansion of the business of his son and for their business needs, deserves to be accepted. Accordingly, the said bonafide need requirement of petitioner appellant landlord stands accepted.

27. An argument was raised that it has emerged from the evidence that the petitioner/landlord has sold a property to somebody else. However, this Court is of the opinion that the sale of a property cannot be equated with an unwarranted vacation of a commercial property. A landlord cannot be expected to ignore his monetary requirements, which may be fulfilled through the sale of a property, merely to satisfy the whims of a tenant. An immovable property serves two purposes: firstly, for use and occupation, and secondly, as an asset which can be disposed of in case of necessity. If any property is sold by a landlord, the tenant is in no capacity to question why the property was sold, and merely because of such sale it cannot be argued that the tenanted property should not be got vacated. After all, who is to satisfy the monetary requirements of the landlord which may be fulfilled through the sale of property? The protection granted to the tenant under the East Punjab Urban Rent Restriction Act cannot be stretched to such an extent that the

landlord may be restricted from exercising his basic economic wisdom.

28. The learned Rent Controller appears to have over-emphasised the aspect that the landlord had allegedly concealed important details such as the vacation of two shops. However, in the opinion of this Court, the appellant does not appear to have vacated any property without sufficient cause. Rather, it has come on record that he had got certain premises vacated from other tenants, which cannot be equated with the landlord himself vacating a property. A clear statement was made in the evidence as well as in the pleadings that the shop in question forms part of a larger complex in the same building and, therefore, there does not appear to be any concealment on this aspect. As regards the shop on the left or right side allegedly lying vacant, it is for the landlord to decide which particular premises are required by him; the tenant cannot dictate that he should utilise some other vacant shop instead. Quite often, vacated spaces are intended to be used collectively, and such a situation also appears possible in the present case. In the considered opinion of this Court, there does not appear to be any concealment, and the trial Court has given unnecessary importance to this aspect.

29. With regard to the plea of sub-tenancy, this Court endorses the findings recorded by the learned Rent Controller. The onus to prove

sub-tenancy was upon the applicant-landlord. However, the landlord seeks to draw an inference merely from the fact that Ram Pyaari, the original tenant, is not being seen in the shop. Such an inference cannot be accepted. In India, it is quite common that businesses are run collectively by family members. Therefore, if the son of Ram Pyaari is managing or responding to the business while his mother continues to remain the tenant, no inference of sub-tenancy can be raised. The learned trial Court has, therefore, reached the correct conclusion on this aspect. The non-examination of Ram Pyaari cannot be stretched to conclude that she was deliberately avoiding the establishment of sub-tenancy or attempting to avoid cross-examination. The primary burden of proof was upon the applicant-landlord, which he has failed to discharge. Even otherwise, the fact that respondent No. 2 is the son of respondent No. 1, the original tenant, completely dispels the allegation of sub-tenancy. The plea of sub-tenancy is, therefore, wholly unacceptable and is rejected, and the findings of the learned Rent Controller on this aspect are hereby affirmed.

30. The cumulative result is that the instant appeal deserves to be accepted as the petitioner-landlord has been able to establish the bona fide need on his part as well as on the part of his son for the purpose of business and expansion of the business. Consequently,

on this ground of personal necessity, the present appeal stands accepted. It is accordingly ordered that the respondent-tenant shall vacate the premises in question within three months from the receipt of the certified copy of this order, failing which the appellant-landlord shall be at liberty to take appropriate remedies by way of execution in accordance with law. Memo of costs be prepared. .File be consigned to the record room.

Pronounced in open Court.

09.02.2026

**(Shatin Goyal)
Appellate Authority,
Amritsar(UID No.PB0157)**

**Hira lal Stenographer Gr.1*

Neeru Mahajan s Neha Arora etc

RA 40 of 2022

Present: Sh.Khushbir Singh, Advocate counsel for the appellant.

Sh. Tirath Singh, Advocate counsel for respondents no.2 and Lrs of respondent no.1.

Vide two separate orders of even date, application 15.12.2020 filed on behalf of appellant to implead legal heirs of deceased respondent no.1 Ram Pyari as well as applications dated 22.08.2023 and 27.08.2025 filed on behalf of respondent for leading additional evidence have been disposed off detailed as stated therein.

Arguments heard. Vide separate judgment of even date, instant appeal filed by the petitioner has been allowed. Memo of Costs be prepared accordingly. Ld. Rent Controller's record along with copy of judgment be sent back and appeal file be consigned to the record room.

Pronounced in open Court.

09.02.2026

**(Shatin Goyal)
Appellate Authority,
Amritsar(UID No.PB0157)**

**Hira Lal Stenographer Gr.1*